IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HONOURBALE SRI JUSTICE N.V. RAMANA

W.P. No. 27234 OF 2005

Dated : March 10, 2006

Between:

B.Lalitha

Petitioner

AND

The Regional Manager,

APSRTC, Rangareddy Region,

At MGBS Complex, Gowliguda, Hyderabad

and another

Respondents

THE HONOURBALE SRI JUSTICE N.V. RAMANA

W.P. No. 27234 OF 2005

ORAL ORDER:

Seeking a writ of mandamus declaring the action of the respondents in not paying the gratuity amount of the petitioner's husband, for the period from 06.06.1992 to 07.05.1997 i.e. from the date of removal to the date of reinstatement as illegal and arbitrary, the present writ petition is filed.

The petitioner is widow of the deceased B.Narasimha, who worked as driver in the respondent Corporation and breathed his last on 13.5.2005 while on duty. While working at Hyderabad-2 Depot, the deceased was removed from service on the charge of rash and negligent driving byorder dated 16.1.1993, which was assailed by him in ID No. 56 of 1994 and the Labour Court-I, Hyderabad, by award dated 6.12.1996 ordered for reinstatement as fresh driver with the direction that the previous service shall be counted for pensionary benefits. Aggrieved of the said award, the deceased filed WP No. 11238 of 1998,which was disposed of on 10.1.2003 directing the respondents to reinstate the deceased into service as driver with continuity of service, but without back wages and the Writ Appeal No. 2154 of 2003 preferred therefrom by the respondent Corporation was also dismissed on 10.12.2003 confirming the order passed in the Writ Petition. The grievance of the petitioner is that the respondent – Corporation has not paid him gratuity for the period from 06.06.1992 to 07.05.1997 i.e. from the date of removal to the date of reinstatement

The learned counsel for the petitioner submits that the issue involved in this writ petition is squarely covered by decision of this court in *M.Rama Rao Vs. Asst. Traffic manager, APSRTC, Hyderabad and another* () wherein this court held that in a case where under Sec. 11 of the Industrial Disputes Act, 1947, the Labour Court has set aside the order of removal of an employee and directed that the employee be reinstated into service with continuity of service, the management could not deny the payment of gratuity to the employee on his

retirement for the period during which he was out of employment as a result of the illegal order of removal.

In the light of the judgment of this court referred to above and the submission of the parties that the decision of this court in the said judgment governs the case, the writ petition is allowed in terms of the judgment of this court referred to above. No order as to costs.

N.V.RAMANA, J.

March 10, 2006

MAS.